

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

DAMIAN DEPRIST McCALL,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-09-927-D
)	
RANDALL WORKMAN, Warden,)	
)	
Respondent.)	

ORDER

This matter is before the Court for review of the Report and Recommendation [Doc. No. 18] issued by United States Magistrate Judge Bana Roberts pursuant to 28 U.S.C. § 636(b)(1)(B)-(C). Petitioner has timely objected to the Report, which recommends the denial of his Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus. The Court must make a *de novo* determination of any portion of the Report to which a specific objection is made, and may accept, modify, or reject the recommended decision in whole or in part. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

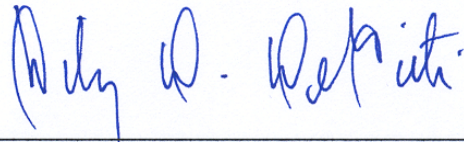
Petitioner, a state prisoner appearing *pro se*, seeks a writ of habeas corpus with respect to convictions of shooting with intent to kill, assault and battery with a dangerous weapon, and possession of a firearm, all after former felony convictions, which resulted in a sentence of life imprisonment. On direct appeal, Petitioner raised claims regarding the trial court's denial of his request for a competency determination and trial counsel's effectiveness. In the Report, Judge Roberts conducts a thorough analysis of the issues and concludes that Petitioner has failed to show that the Oklahoma Court of Criminal Appeals reached a result that was contrary to, or an unreasonable application of, clearly established federal law. In his Objection, Petitioner simply disagrees with Judge Roberts' conclusions. Petitioner argues that the trial judge actually doubted

his competency to stand trial but denied the request for a competency evaluation due to a congested trial docket, and that his counsel failed to provide any defense.¹

Upon *de novo* consideration of the issues, the Court finds that Judge Roberts' analysis of the issues is correct. Because the Court cannot add significantly to her discussion of Petitioner's claims, the Court adopts the Report in its entirety as though fully set forth herein.

IT IS THEREFORE ORDERED that the Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus is denied. Judgment shall be entered accordingly.

IT IS SO ORDERED this 1st day of August, 2011.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE

¹ Petitioner does not object to Judge Roberts' summary of the procedural history of the case, the underlying facts, or the relevant state court record. Petitioner also does not object to Judge Roberts' analysis of his third ground for relief. Thus, further review of these matters is waived. See *United States v. 2121 East 30th Street*, 73 F.3d 1057, 1060 (10th Cir. 1996); *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).